

another preliminary amendment. The second preliminary amendment was filed within the three-month period (*i.e.*, before November 19, 2004).

In that second preliminary amendment, the claims were amended so that the text of the claims would be the same as the claims that were allowed by the Notice of Allowance of February 26, 2004. In particular, the phrase “adjacent to” was changed back to “at” as appeared in the previously allowed claims. However, it also is clear from the Office action (*see, e.g.*, par. 2 at pages 2-3) that the claim amendments were not considered by the PTO before the present action was mailed. In view of the amendments presented in the preliminary amendment of October 28, 2004, the rejections under 35 U.S.C. §112, par. 2 should be withdrawn.

Applicant also notes that the rejections in the present Office action under 35 U.S.C. §§102-103 are substantially the same as the rejections that were made in an earlier Office action, dated October 15, 2003 (*see* pars. 5 and 6). Those rejections, however, were overcome by applicant’s reply of January 9, 2004. Indeed, the Examiner previously recognized that the pending claims are allowable (*see* Notice of Allowance and Notice of Allowability dated February 26, 2004).

In view of the foregoing remarks, applicant submits that the pending claims are in condition for allowance and respectfully requests such favorable action.

In the event that another Office action (other than a Notice of Allowance) is issued by the PTO, applicant respectfully submits that such an Office action should be designated as non-final in view of the fact that the current Office action of November 3, 2004 was addressed to claims that were not then pending.

Applicant also requests that the Examiner contact the undersigned attorney to resolve any remaining issues.

Applicant : Shuichi Kikuchi et al.
Serial No. : 09/943,667
Filed : August 31, 2001
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Attorney's Docket No.: 10417-094001 / F51-
137276M/SW

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 2/3/05

Samuel Borodach
Samuel Borodach
Reg. No. 38,388

Fish & Richardson P.C.
Citigroup Center
52nd Floor
153 East 53rd Street
New York, New York 10022-4611
Telephone: (212) 765-5070
Facsimile: (212) 258-2291

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Shuichi Kikuchi et al.

Art Unit : 2822

Serial No. : 09/943,667

Examiner : Toniae M. Thomas

Filed : August 31, 2001

Title : SEMICONDUCTOR DEVICE AND METHOD FOR MANUFACTURING THE
SAME

MAIL STOP AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

SECOND PRELIMINARY AMENDMENT

Prior to examination, please amend the application as indicated on the following pages.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

October 28, 2004

Date of Deposit

Signature

Paula T. Romeo

Typed or Printed Name of Person Signing Certificate

Attorney's Docket No. 10417-094001	Express Mail Label No.	Mailing Date October 28, 2004	For PTO Use Only <i>Do Not Mark in This Area</i>
Application No. '09/943,667	Filing Date August 31, 2001	Attorney/Secretary Init SXB/ptr	
Title of the Invention SEMICONDUCTOR DEVICE AND METHOD FOR MANUFACTURING THE SAME			
Applicant Shuichi Kikuchi et al.			
Client Reference No. FS1-137276M/SW			
Enclosures Second Preliminary Amendment (6 pages)			

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